

THE ARIZONA SILVER BELT.

Globe, Gila County, Arizona,
—ST—
A. H. HACKNEY,
Editor and Proprietor.

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TERRITORY vs. FRED E. SCHEISS.

Examination of Fred E. Scheiss for the Killing of Thomas P. Moore.—Defendant Honorably Discharged.

F. P. Cline, deposed as follows: I live in Tonto, and my business is stock-raising. I knew defendant Fred Scheiss and also Thos. Moore, the deceased, during his lifetime. I last saw him alive about one-half mile west of my place upon the trail coming down out of the mountain. I also saw him dead a little northwest of my place. This was on the evening of the 28th of this month at about 9 o'clock. I know how he came by his death.

He was shot by Mr. Fred Scheiss here with a Winchester rifle on the evening of the 28th of this month at about 9 o'clock. The circumstances were these: It was west of my place. We saw Tom Moore coming down the trail and John Cline and Mr. Scheiss stepped on one side the trail, Tom Cline coming down, Mr. Scheiss then stepped into the trail and said "stop Tom Moore I want you." Moore then jerked his six-shooter out and broke and ran. Mr. Scheiss hollered "halt there," and fired at him. He then ran I suppose about 100 yards and fell from his horse. When I say, we were there, I mean Mr. Scheiss, myself and John Cline. Mr. Scheiss used both his Winchester rifle and his six-shooter firing two shots out of the Winchester and four out of the six-shooter. Tom Moore only spoke one word which was as he jerked out his six-shooter—he said "I'm here" and threw up his hand. That was all I heard him say. The motion was as if he was cooking his six-shooter, as a man generally does when cooking a pistol. Deceased was on a pony. He never halted or stopped, but as soon as he jerked out his pistol made a dash on his horse. I saw the six-shooter afterwards, it had no loads in it. Deceased held his pistol when he turned as if he was going to cock it to shoot, with his hand on the hammer. As this man hollered "halt" he just jerked out the pistol this way, as if he was pulling the hammer up, to shoot, but he did not shoot. I was present when there was an examination of the body after death. Mr. Scheiss was there, also John Cline, and Ben Pascoe went to look at him, then Crabtree was there and Bill Allison. My father, Toke Cline, Tom Cline, two boys of Crabtree's and the Mexican who Ward, all were there. I saw his body—his right leg somewhere.

I don't know exactly how long it was after defendant spoke to Moore before defendant shot. It was a very short time, a second or two I suppose. John Cline and I were armed too, Moore turned his horse to the left, I myself was down the trail (below where they were about twenty-five to thirty feet, I was right close to him when he stepped out from the trail where he would have him cast from me. I was also east from the defendant, in the trail, not aside from it. John Cline was to the left of the trail as we went up. We were going up the trail when we met him. He was riding a white horse. I guess he was about fifty or sixty yards off at the time we first saw him, I don't know exactly, it was in the night, we saw him coming down and Fred stepped aside of the trail, he was a little ahead of me on the trail. Defendant was about ten or fifteen, perhaps twenty feet, from Moore when he fired the first shot. We were about. It was about ten seconds, I reckon, after the shooting that we went to the body. We went as soon as we could get there. It was about one hundred yards from where he started to where he fell.

Cross-examined by W. Graves:
Q.—What were you and defendant and John Cline doing on the trail that led to the west of Frank Cline's house?
A.—We went to hunt Tom Moore.
Q.—What were you hunting him for?
A.—For killing Charlie Hyde. (This was objected to, but overruled.)
Q.—Had you seen Moore, the deceased, on that day?
A.—Yes sir.
Q.—When did you see him?
A.—He came to my place between 1 and 2 o'clock.
Q.—Did you have any conversation with him?
A.—Yes sir.
Q.—State what it was about?
This was objected to by District Attorney as improper cross-examination and could be proved by the defense making the witness their own instead of getting their case out of the witness for the territory. Mr. Graves waived the objection.

this not being done the court sustained the objection and the question was withdrawn with an exception to the defendant.

Q.—State whether or not you knew the circumstances of the killing of Chas. Hyde, either of your own knowledge or as related to you by Moore?
A.—I can say this, Tom Moore told me he killed him and I saw the body.
Q.—This was as related to you by Moore?
A.—Yes.
Q.—State the circumstances of this conversation with Moore. Objected to and objection sustained by court—exception to defendant.

John L. Cline, gave evidence which was corroborative to the foregoing. He also said "I saw the wound on deceased after death. The bullet seemed to have hit him on the right shoulder and came out about the left breast. It was on the back part of the shoulder." It was moonlight when Moore was shot and there was quite light enough to recognize him. We were neither of us territorial officers. The shooting was as rapid as I could shoot myself and at every shot Scheiss would holla stop. He hollered stop before he shot at all, and Moore showed no willingness to obey the command, but continued running.

The district attorney here rested his case, as far as his present knowledge of the facts was concerned, but asked for a continuance until the sheriff, who was in the neighborhood at the time of the shooting, should return, as the circumstances were peculiar; the defendant being his own accuser, and the sheriff might know something more of the facts.

This request, after some discussion, was granted, and court adjourned till Monday morning.

On Monday morning the sheriff had not returned, and the defendant's case was presented.

F. P. Cline deposed: I knew Chas. Hyde in his lifetime. I saw him dead at Reno. Tom Moore told me he killed him. He came to my house at between one and two o'clock one morning, called me out of doors and told me he had killed a man. I asked him who? He said Charlie Hyde. He then asked me for some cartridges, saying he wanted to get away, because if the people caught him they would either hang him or send him to the penitentiary for life. He said he would die before anybody should arrest him alive. These were the last words he said to me. When he left my house he started down the road. I saw the dead body of Charlie Hyde, and examined it. He was shot just below the right eye, and the bullet lodged just at the back of his head. I was called on to help Scheiss and John Cline arrest Moore. The circumstances were these: We were all at Camp Reno, and John came and said he had met Tom Moore on the mesa. Fred asked us if we would not go and help him arrest him. We said yes, and started past Ward's ranch down to my place, and took the trail leading in the direction John said he had seen Moore. We saw him coming. Fred and John stepped on one side of the trail; I remained in the trail; Moore came on. Fred stepped then into the trail and said, "Stop, Tom, I want you." Tom pulled his pistol and wheeled his horse round, and Fred fired at him. While he was firing he was hollering, "Halt, stop," every time he fired. Moore ran on about 100 yards, and then fell from his horse dead. Moore was about 15 feet from us when Fred first hollered "Stop." Witness then described the motion Moore made to fire, and drew a diagram showing the position of all the parties. He also said: The ground is pretty rough round there; there are a good many boulders. Very few people pass up that way. Moore lived and worked for Ward.

Cross-examined.—John and I were armed with a pistol. Moore came to my house at about midnight of May 28th, just after the killing of Hyde. I told defendant about this conversation. When Moore came to me he had his pistol in his hand, and kept lifting the hammer and letting it snap. I told him to be careful or he would shoot me. He said the pistol had no loads in it; if it had he would have killed the whole outfit at Camp Reno and had his horse in the saddle before he left. He tried to get cartridges then, but I didn't let him have any. I did not try to arrest then. I said, "Are you certain you have killed Hyde?" He answered, "I am not certain, but I think I killed him, for I was not over 25 feet from him when I shot him. He said he fired a shot at Hyde and ran. I then went to Reno, and arrived at 4 a. m. on the 29th.

Q.—I don't know who first spoke about going in search of Moore. The whole crowd was talking about it; I think Andy Blake spoke about it first. We started late in the evening, and no one was at Reno except Little Bill, whom Fred asked to stay there and mind the place. It was getting dark when we reached my place. We were on horseback. We remained at home about ten minutes. I don't know whether anything was said about Moore having fired his last cartridge. It may have been spoken of among the boys. When we went out I was horseback and the other two were afoot. I didn't know the sheriff was in the neighborhood till he came after Moore was dead and while we were fixing to bury him. I was digging the grave and John came and said Pascoe had come. I don't know who first proposed going in search of Moore; I know Andy Blake said he would go. Moore had turned his horse and had him under headway when Fred first shot, but just as he turned his horse he jerked his pistol. When we met him he was going between a walk and a trot, a good fast walk, and he never made any halt. You could not ride fast there.

Re-direct.—I am acquainted with Ward who lives up there, and I know he has arms in his house; two rifles, one a needle gun and one a Winchester. I don't know whether he keeps any pistols. Mr. Watkins also lives up there. Moore was in the employ of Ward; made his home at his house and rode his horse.

John L. Cline deposed: I was at home and Mr. Jim Watkins came and said Charlie Hyde was killed, and I had better go and help take care of him. I started to Camp Reno, and on the way met Tom Moore. I went on to Reno, and after the burial of Hyde I told Fred Scheiss and Frank Cline about my seeing Moore. Fred asked us if we would go and help arrest him. We said we would.

Witness then detailed the circumstances of the shooting substantially the same as the former witness. He also said: I saw Moore at about half past eleven that morning. He was about 300 yards from me. He was going kinder across, the opposite way from me towards the mountains.

Cross-examined.—Fred got his gun from Frank Cline. The matter of Moore having fired his last cartridge was not discussed amongst us. It may have been spoken of, but I didn't hear it.

Re-direct.—We didn't start from Reno immediately in search of Moore. We waited till the other parties had left. The sun was going down when we left Reno.

DEFENDANT'S STATEMENT.

The defendant Fred E. Scheiss made a statement under oath: I am 32 years old and was born at St. Louis, Mo., I reside at Reno station and have been there a little over two months, not quite two months. My business is millman. In answer, I read from the night of 27th, about 9 o'clock, in company with William Lanius. After I turned my horse out I went in and eat lunch, Mr. Lanius he laid down on the bed while I went into the saloon. In there I found Charles C. Hyde, T. P. Moore and James Harker, Jr. They were talking and Moore proposed all hands take a drink. Hyde told me to get behind the bar and wait on them, he said he didn't want to attend bar any more that day. After serving them, they sat down while I remained behind the bar. They had been sitting there quite a while talking when Charlie Hyde asked them all up to take a drink with him. I served them and they drank what they called for and sat down again. A short time after James Harker proposed to shake dice with Moore and Hyde, they shook dice, got their drinks and stepped back from the bar. They kept shaking dice and drinking every ten or fifteen minutes until I think about half-past 11. They stood up in front of the bar to see who could shake the highest. While shaking dice Moore and Hyde got to joking each other. Moore returned the joking. They all seemed to be in good humor laughing, till finally Moore took offense and seemed to be getting mad when Hyde told him "no one to get mad Tom, we were all in fun, I did not mean any insults, when Moore called him a liar, at that moment I stepped out from behind the bar in front and between Hyde and Moore, when Hyde spoke up and said "that's all right Tom, I don't want to quarrel with you, we have always been good friends." Then Moore said "you're a lying son of a b—." As soon as he said that Hyde fired a blow at him with his six-shooter, and

we got Moore out, I let go of Hyde and stepped outside, closed the door after me when I ran against Tom Moore—Tom remarked, "now let the son of a b— come," when I told him, "Tom the best thing you can do is to go home and drop this thing." He shoved the pistol in my face and said "step out of my way f—d— you, or I'll shoot you." I stepped on one side, as I did so, Hyde he stepped out of the saloon door—the moment he came out of the door Tom Moore fired a shot, Charlie Hyde reeled and fell, Tom turned and ran immediately after firing the shot. When I saw Hyde fall I holla out at Tom, "stop Tom, you've killed him," I turned round to see how badly Charlie was hurt. I heard Tom go into the brush immediately after he ran. I tried to get assistance to pick up get anyone to help me till nearly 2 round then I laying him out, I stayed lay, then I until the first break of Moore left got on the horse that Tom was on, and went over to Mr. Watkins and James Watkins of place and to get as corpse. After Messrs. Watkins dug the grave, making the coffin. James Watkins started off—after a Frank Cline, Tom C. Cline and the Mexican to assist in burying it was about an hour at Cline came. After the most of them had left, I told "I seen Tom Moore hills as I was coming to asked them, Frank and whether they would help me Tom Moore and they said they We left Reno late in the ev. crossed the trail from Reno down the wagon road, went by Ward's ranch on to Frank Cline's place where we got some grain and went in the direction where John Cline had seen Moore. John Cline and myself were afoot while Frank was horseback. We had gone about half a mile on the trail leading towards the mountains when we saw Tom Moore coming towards us, John Cline and myself stepped to one side to the left of the trail while Frank stayed in the trail about twenty-five feet behind us, when Moore got within ten or fifteen feet of me I told him stop Tom I want you, then he pulled his pistol turned his horse and started off on a run. As he pulled his pistol he said "I am here." When he started to run after my commanding him to stop I fired, then I told him to stop again and fired the second shot out of the rifle and then pulled my pistol and fired at him out of that four shots. Before firing I would tell him to stop. His horse ran about one hundred yards and Moore fell out of the saddle, when we got to him, he was dead. Frank Cline, after he found Moore was dead, went off after assistance to help to bury him; we buried about